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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,873	04/16/2001	Mark Vange	CIRC018	5575

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EXAMINER

ALAUBAIDI, HAYTHIM J

ART UNIT	PAPER NUMBER
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2171

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DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,873

Applicant(s)

VANGE ET AL.

Examiner

Haythim J. Alaubaidi

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to the amendments filed on April 12, 2004 and November 17, 2003.
2. Claims 1-16 and 21-23, are presented for examination following the amendment.
3. Claims 1-16 and 21-23, are rejected under 35 U.S.C. 102(e).

Priority

4. This application is a continuation of provisional Application No. 60/197,490 and therefore, accorded the benefit of the earlier filing date of 17 April, 2000.

Response to Arguments

Applicant's arguments, see the amendment filed on April 12, 2004, with respect to Claims 1-16 and 21-23, have been fully considered and are persuasive. The final rejection of February 10, 2004 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of F. Thomson Leighton.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

Art Unit: 2171

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-16 and 21-23, are rejected under 35 U.S.C. 102(e) as being anticipated by F. Thomson Leighton (U.S. Patent No. 6,553,413 and Leighton hereinafter).

Regarding Claims 1-2, 4, 8-9, 15-16 and 23, Leighton discloses:

a communication network (Figure No 1, Element No. 14 and corresponding text)

a plurality of client applications coupled to the network (Figure No 1, Element No's. 10 and 16 and corresponding text; see also Col 3, Lines 56-58, i.e. and copies are located in regions close to the clients that are requesting them)

a set comprising one or more intermediary server coupled to the network (Figure No. 3, Element No's 36, 38 and 40; see also ISP; see also Col 5, Lines 50-56)

a data storage mechanism coupled to the network at a topological position with respect to the client applications that is unique from the topological position of intermediary server (Figure No. 1, Element No. 12; see also Figure No 3, Element No. 45 and corresponding text; see also Col 6, Lines 12-21, i.e. The servers are preferably located at the edges of the network; see also Col 6, Lines 35-38; see also Col 2, Lines 51-56; see also Col 10, Lines 23-29) and having an interface for communicating with the intermediary server (Figure No 5, Element No. 1 and corresponding text; see also Col 5, Lines 22-30)

means within the at least one intermediary server to access the data storage mechanism and establishing a channel (Col 4, Line 65 through Col 5, Line 10; see also Col 13, Lines 42-45)

using the intermediary server to format database content obtained from the data storage mechanism to a format usable by the client application (Col 1, Lines 21-40)

Regarding Claim 3, Leighton wherein at least one of the client applications comprises a web browser application (Figure 1, Element 16) and an HTTP request (Col 4, Lines 8-30).

Regarding Claim 5, the limitations of this claim is similar in scope to the rejected claim 1, above. In addition, Leighton discloses an intermediary server is topologically distant from the data storage mechanism (Col 5, Lines 55-56).

Regarding Claims 6 and 10, Leighton discloses:
a first computer located topologically close to the client application (Col 6, Lines 36-38)
a second computer located topologically close to the data storage mechanism (Figure 3, Element 36; see also Col 15, Line 66 through Col 16, Line 10).

Regarding Claims 7 and 11-14, Leighton discloses the support for prioritizing the requests (Col 11, Lines 55-57, i.e. The serial numbers are then processed in increasing order of load; see also "priority list" at line 61 of the same Col).

Regarding Claims 21-22, the limitations of these claims are similar in scope to the rejected claim 1, above. In addition, Leighton discloses:

causing the intermediary server to determine availability (Col 3, Line 67 through Col 4, Line 2, i.e. In particular, the top level DNS server returns a list of low-level DNS servers that may be used by the client to service the request for the embedded object)

using the intermediary server to obtain substitute database content in the busy or unavailable event (Col 4, Lines 3-6).

7. Applicant's amendments of April 12, 2004 and November 17, 2003 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Points of Contact

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haythim J. Alaubaidi whose telephone number is (703) 305-1950. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any response to this office action should be mailed to:

The Commissioner of Patents and Trademarks, Washington, D.C. 20231 or telefax at
our fax number (703) 872-9306.

Hand-delivered response should be brought to Crystal Park II, 2121 Crystal Drive, 6th
Floor Receptionist, Arlington, Virginia. 22202.

Haythim J. Alaubaidi

Patent Examiner
Technology Center 2100
May 11, 2004


SAFET METJAHIC
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100